Remarks/Arguments

The preceding amendments and following remarks are submitted in response to the Official Action mailed July 29, 2003, setting a three month shortened statutory period for response ending October 29, 2003. Claims 1 and 3-21 remain pending. Claim 2 has been canceled without prejudice. Reconsideration, examination and allowance of all pending claims are respectfully requested.

In paragraph 2 of the Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 102(e) as being anticipated by Stellwagen, Jr. (U.S. Patent No. 5,835,755). In response, claim 1 has been amended to include some of the limitations of claim 2. With respect to claim 2, and in paragraph 4 of the Office Action, the Examiner states that Stellwagen, Jr. does not suggest "a maximum desired processor utilization" or "a transaction per second requirement", as recited in claim 2. Claim 1 now recites that the user defined workload requirement includes a plurality of inputs from a user including a maximum desired processor utilization, and a transactions per second requirement. Claim 2 has been canceled, without prejudice.

In paragraph 4 of the Office Action, the Examiner rejected claims 2-6 under 35 U.S.C. § 103(a) as being unpatentable over Stellwagen, Jr. as applied to claim 1 above, and further in view of Yang et al. (U.S. Patent No. 6,542,854). Although Applicant disagrees with the Examiners interpretation of the references, enclosed herewith is the Declaration of the sole inventor John M. Quernemoenm submitted under 37 CFR §1.131, showing prior invention in the United States of the claimed inventions of the present application relative to the Yang et al. patent (U.S. Patent No. 6,542,854). As detailed in the Declaration, and shown by the evidence attached thereto, the present inventor completed the inventions included in this application prior

to April 30, 1999, which is the effective filing date of the Yang et al. patent (U.S. Patent No. 6,542,854). As such, Applicant respectfully requests that the Examiner withdraw all rejections of the pending claims that are based on the teachings of the Yang et al. patent in response to the inventors' Declaration of Prior Invention.

As noted above, claim 1 has been amended to include some of the limitations of claim 2, and claim 2 has been canceled without prejudice. Each of claims 3-5 have been amended to be in independent form, including all of the limitations of originally presented claim 1. Claim 6 has been amended to be dependent from claim 5. In view of the foregoing, claims 1-6 are now believed to be clearly in condition for allowance.

In paragraph 9 of the Office Action, the Examiner rejected claim 7 under 35 U.S.C. § 103(a) as being anticipated by Stellwagen, Jr. as applied to claim 1 above, and further in view of Blake et al. (U.S. Patent No. 6,067,412). The Examiner states that Stellwagen, Jr. fails to suggest the features of claim 7 underlined below:

> 7. (Presently Amended) A method according to claim 1, wherein said user defined workload requirement[[s]] <u>includes a baseline system transactions per second, and said output[[s]] includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second, and wherein said determining step determines values for said calculated transactions per second and said transactions per second ratio</u>.

However, the Examiner states that Blake suggests the use of baseline systems, the use of transactions per second, the use of calculations, the use of values, and the use of ratios. The Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Blake and Stellwagen since Stellwagen and Blake, teach the use of computers, the use of databases, the use of networks, the use of clients, the use of servers, the use

of hardware, the use of software, the use of workloads, and the use of requirements. The Examiner further states that Stellwagen provides a proposed database management system server and Blake provides a baseline system for the performance of the server.

After carefully reviewing both Stellwagen, Jr. and Blake et al., Applicant must respectfully disagree. Claim 7 recites:

> 7. (Presently Amended) A method according to claim 1, wherein said user defined workload requirement[[s]] includes a baseline system transactions per second, and said output[[s]] includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second, and wherein said determining step determines values for said calculated transactions per second and said transactions per second ratio.

As can be seen, claim 7 recites that the user defined workload requirement includes a baseline system transactions per second. Although it is not entirely clear, the Examiner appears to be citing column 9, lines 44-49 and column 2, lines 6-7 of Blake et al. as suggesting these features. Column 9, lines 44-49 and column 2, lines 6-7 of Blake et al. state:

> "...This information about the performance of the operating system is preferably generated during the construction of the model by using the synthetic workload generator to apply workloads to a baseline computer system and using the actual performance measurements as an indication of the operating system performance...." (citing Blake et al., column 9, lines 44-49).
>
> "...In other words, the disk can handle 2 transactions per second and the CPU can handle 4 transactions per second..." (citing Blake et al., column 2, lines 6-7).

(Emphasis Added). As can be seen, the first cited passage of Blake et al. suggests using a synthetic workload generator to apply workloads to a baseline computer system. However, this does not suggest a user defined workload requirement that includes a baseline system transactions per second, as recited in claim 7.

The synthetic workload generator of Blake et al. is further discussed under the heading "Synthetic Workload Generator" in column 12 of Blake et al. Table 3 of that section contains a listing of preferred workload parameters. Table 3 is reproduced below for the Examiner's convenience:

TABLE 3

WORKLOAD PARAMETER	DEFINITION
Code RAM Demand	The average amount of RAM used by the workload code.
Data RAM Demand	The average amount of RAM used by the workload data.
Local Paging Affinity	The fraction of paging on local disks, as opposed to on the network.
Sequential Read Processing	The amount of application processor time on the baseline system between sequential reads of disk or network.
Sequential Write Processing	The amount of application processor time on the baseline system between sequential writes to disk or network.
Random Read Processing	The amount of application processor time on the baseline system between random access reads from disk or network.
Random Write Processing	The amount of application processor time on the baseline system between random access writes to disk or network.
Sequential Read Size	The size of each sequential read from disk.
Sequential Write Size	The size of each sequential write to disk.
Random Read Size	The size of each random access read from disk.
Random Write Size	The size of each random access write to disk.
Local Sequential Read Affinity	The fraction of sequential reads to local disk, as opposed to the network.
Local Sequential Write Affinity	The fraction of sequential writes to local disk, as opposed to the network.
Local Random Read Affinity	The fraction of random reads to local disk, as opposed to the network.
Local Random Write Affinity	The fraction of random writes to local disk, as opposed to the network.
Random Read Extent	The size of the portion of the disk being randomly read.
Random Write Extent	The size of the portion of the disk being randomly written.

As can be seen, none of the workload parameters provided in Table 3 of Blake et al. appear to even remotely relate to a user defined workload requirement that includes a baseline system transactions per second, as recited in claim 7. Instead, they all appear to relate to workload parameters for very specific functions within a computer system, and not an overall transaction per second parameter of a baseline system. As such, Blake et al. would appear to teach away from the claimed invention. Nor does anything in this section of Blake et al. appear to suggest

providing an output that includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second, as recited in claim 7.

The second passage of Blake et al. cited by the Examiner, namely, column 2, lines 6-7 of Blake et al. appears to add little to the discussion. The paragraph at column 1, line 62 through column 2, line 23 appears to be merely describing the nature of a bottleneck within a computer system. The portion specifically cited by the Examiner appears to be just providing one example of a bottleneck within a computer system, where the disk is the limiting resource. Nothing in this paragraph appears to suggest a user defined workload requirement that includes a baseline system transactions per second, as recited in claim 7. Nor does anything in this section of Blake et al. appear to suggest providing an output that includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second, as recited in claim 7.

As noted above, claim 7 also recites that the output includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second. Nothing in the portions of Blake et al. cited by the Examiner appears to suggest these features.

The Examiner appears to be citing column 6, lines 62-64 of Blake et al. as suggesting a ratio of said calculated transactions per second to said baseline transactions per second. Column 6, lines 62-63 of Blake et al. is taken from Table 1, the cited portion of which is reproduced below:

TABLE 1

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// The following are NT characteristics or can be measured directly.
    System_Paged:                          ["megabytes"]
                        CSRSS_RAM_Demand +
                        Spooler_RAM_Demand -
                        Pool_Paged +
                        System_Code_Paged +
                        System_Nominal_Available_Bytes
    System_Non_Paged:                      ["megabytes"]
                        Pool_Non_Paged +
                        Kernel_Non_Paged +
                        Protocol_Non_Paged -
                        Drivers_Non_Paged +
    // Relative_Memory_Size is a property of installed processor type.
    Relative_Memory_Usage:                 ["ratio"]
                        Index(Relative_Memory_Size,
                              Installed_Processor_Index - 1)
    RAM_Demand:                            ["megabytes"]
                        (
```

First, it does not appear that the cited portion of Blake et al. even remotely relates an output that includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second. According to Blake et al., Table 1 contains a listing of the equations corresponding to the portion of the model shown in FIG. 3 (Blake et al., column 6, lines 44-46). Moreover, it is clear that the cited portion of Table 1 relates to a relative memory size and a relative memory usage, which does not appear to be related in any way to providing an output that includes a calculated transactions per second value, and a ratio of said calculated transactions per second to said baseline transactions per second, as recited in claim 7. In view of the foregoing, Applicants believe it is clear that neither Stellwagen, Jr. nor Blake et al. suggest many of the features of claim 7, and therefore, Applicant must respectfully traverse the Examiner's rejection of claim 7. Applicant has amended claim 7 to be in independent form to include all of the limitations of previously presented claim 1.

In paragraph 10 of the Office Action, the Examiner rejected claims 8-21 under 35 U.S.C. § 103(a) as being unpatentable over Stellwagen, Jr. as applied to claim 1 above, and further in view of Yang et al. (U.S. Patent No. 6,542,854). As noted above, Yang et al. is removed as a reference as a result of the inventors' Declaration under 37 C.F.R. § 1.131. As such, claims 8-21 are believed to be clearly in condition for allowance.

In view of the foregoing, Applicant believes that all pending claims 1 and 3-21 are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner believes it would be beneficial to discuss the application or its examination in any way, please call the undersigned attorney at (612) 359-9348.

Respectfully submitted,

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By his attorney,

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